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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

7 RICHARD MARSHALL BOWMAN,  
8  
9 Plaintiff,

10 v.

11 STATE OF WASHINGTON, *et al.*,  
12  
13 Defendants.

No. 09-5510 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION GRANTING IN  
PART AND DENYING IN PART  
DEFENDANT'S MOTION TO DISMISS

14 In this prisoner civil right action, the Magistrate Judge recommends that the Defendant's  
15 Motion to Dismiss be granted in part and denied in part. Claims relating to the Fourteenth  
16 Amendment and Due Process should be dismissed with prejudice. The Motion to Dismiss the  
17 Eighth Amendment claims should be denied. Neither party has filed objections to the Report and  
18 Recommendation.  
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20 The Court, having reviewed the Report and Recommendation of Magistrate Judge J.  
21 Richard Creatura, and the remaining record, does hereby find and ORDER:

- 22 (1) The Court adopts the Report and Recommendation;  
23  
24 (2) The claim relating to the Fourteenth Amendment and Due Process is **DISMISSED**  
**WITH PREJUDICE.** The Motion to Dismiss the Eighth Amendment claim is  
25 **DENIED.**  
26 (3) The Clerk is directed to send copies of this Order to Plaintiff, and to the Hon. J.  
Richard Creatura.

1 (4) The remaining claim is re-referred to the Magistrate Judge for further proceedings.

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3 DATED this 16<sup>th</sup> day of February, 2010.

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7 FRANKLIN D. BURGESS  
8 UNITED STATES DISTRICT JUDGE  
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